

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GOOD TECHNOLOGY CORPORATION and)
GOOD TECHNOLOGY SOFTWARE, INC.,)
Plaintiffs,)
v.)
MOBILEIRON, INC.,)
Defendant.)

Case No. 5:12-cv-05826-PSG

**OMNIBUS ORDER RE: MOTIONS
TO SEAL**

(Re: Docket Nos. 255, 261, 265)

Before the court are three administrative motions to seal documents. “Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’”¹ Accordingly, when considering a sealing request, “a ‘strong presumption in favor of access’ is the starting point.”² Parties seeking to seal judicial records relating to dispositive motions bear the burden of overcoming the presumption with “compelling reasons” that outweigh the general history of access and the public policies favoring disclosure.³

¹ *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n. 7 (1978)).

² *Id.* (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)).

³ *Id.* at 1178-79.

1 However, “while protecting the public’s interest in access to the courts, we must remain
 2 mindful of the parties’ right to access those same courts upon terms which will not unduly harm
 3 their competitive interest.”⁴ Records attached to nondispositive motions therefore are not subject
 4 to the strong presumption of access.⁵ Because the documents attached to nondispositive motions
 5 “are often unrelated, or only tangentially related, to the underlying cause of action,” parties moving
 6 to seal must meet the lower “good cause” standard of Rule 26(c).⁶ As with dispositive motions, the
 7 standard applicable to nondispositive motions requires a “particularized showing”⁷ that “specific
 8 prejudice or harm will result” if the information is disclosed.⁸ “Broad allegations of harm,
 9 unsubstantiated by specific examples of articulated reasoning” will not suffice.⁹ A protective order
 10 sealing the documents during discovery may reflect the court’s previous determination that good
 11 cause exists to keep the documents sealed,¹⁰ but a blanket protective order that allows the parties to
 12 designate confidential documents does not provide sufficient judicial scrutiny to determine whether
 13 each particular document should remain sealed.¹¹

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 15 In addition to making particularized showings of good cause, parties moving to seal
 16 documents must comply with the procedures established by Civ. L.R. 79-5. Pursuant to
 17 Civ. L.R. 79-5(b), a sealing order is appropriate only upon a request that establishes the document
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19 ⁴ *Apple Inc. v. Samsung Electronics Co., Ltd.*, 727 F.3d 1214, 1228-29 (Fed. Cir. 2013).

20 ⁵ *See id.* at 1180.

21 ⁶ *Id.* at 1179 (internal quotations and citations omitted).

22 ⁷ *Id.*

23 ⁸ *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002);
 24 *see* Fed. R. Civ. P. 26(c).

25 ⁹ *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

26 ¹⁰ *See Kamakana*, 447 F.3d at 1179-80.

27 ¹¹ *See* Civ. L.R. 79-5(d)(1)(A) (“Reference to a stipulation or protective order that allows a party to
 28 designate certain documents as confidential is not sufficient to establish that a document, or
 portions thereof, are sealable.”).

is “sealable,” or “privileged or protectable as a trade secret or otherwise entitled to protection under the law.” “The request must be narrowly tailored to seek sealing only of sealable material, and must conform with Civil L.R. 79-5(d).”¹² “Within 4 days of the filing of the Administrative Motion to File Under Seal, the Designating Party must file a declaration as required by subsection 79-5(d)(1)(A) establishing that all of the designated material is sealable.”¹³

With these standards in mind, the court rules on the instant motions as follows:

<u>Motion to Seal</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reason/Explanation</u>
255	Exhibit 1 to the Declaration of Eric C. Green	All text at Docket 255-5 SEALED except text at 15:1-17:8 and 232:12-233:6 UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
255	Exhibit 2 to the Declaration of Eric C. Green	Designations in yellow at Docket No. 255-7 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
255	Exhibit 3 to the Declaration of Eric C. Green	Designations in yellow at Docket No. 255-10 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
255	Exhibit 4 to the Declaration of Eric C. Green	Designations in yellow at Docket No. 255-12 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
255	Exhibit 5 to the Declaration of Eric C. Green	Designations in yellow at Docket No. 255-14 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
255	Exhibit 6 to the Declaration of Eric C. Green	SEALED	Narrowly tailored to confidential business

¹² Civ. L.R. 79-5(b). In part, Civ. L.R. 79-5(d) requires the submitting party to attach a “proposed order that is narrowly tailored to seal only the sealable material” which “lists in table format each document or portion thereof that is sought to be sealed,” Civ. L.R. 79-5(d)(1)(b), and an “unredacted version of the document” that indicates “by highlighting or other clear method, the portions of the document that have been omitted from the redacted version.” Civ. L.R. 79-5(d)(1)(d).

¹³ Civ. L.R. 79-5(e)(1).

			information.
255	Exhibit 7 to the Declaration of Eric C. Green	SEALED	Narrowly tailored to confidential business information.
255	Exhibit 8 to the Declaration of Eric C. Green	SEALED	Narrowly tailored to confidential business information.
255	Exhibit 9 to the Declaration of Eric C. Green	SEALED	Narrowly tailored to confidential business information.
255	Exhibit 11 to the Declaration of Eric C. Green	Text at Docket No. 255-19 at 377:3-25 SEALED; all other text UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
255	Exhibit 12 to the Declaration of Eric C. Green	Designations in yellow at Docket No. 255-21 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
255	Exhibit 14 to the Declaration of Eric C. Green	Designations in yellow at Docket No. 255-23 at ¶¶ 20, 23 and 48 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
255	Exhibit 16 to the Declaration of Eric C. Green	Designations in yellow at Docket No. 255-25 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
255	Exhibit 18 to the Declaration of Eric C. Green	UNSEALED	Not narrowly tailored to confidential business information. <i>See</i> Civ. L.R. 79-5(d)(1)(A).
255	Exhibit 19 to the Declaration of Eric C. Green	UNSEALED	Not narrowly tailored to confidential business information. <i>See</i> Civ. L.R. 79-5(d)(1)(A).
255	Exhibit 25 to the Declaration of Eric C. Green	SEALED	Narrowly tailored to confidential business information.
255	Exhibit 26 to the Declaration of Eric C. Green	UNSEALED	Not narrowly tailored to confidential business information.

			<i>See Civ. L.R. 79-5(d)(1)(A).</i>
255	Exhibit 27 to the Declaration of Eric C. Green	SEALED	Narrowly tailored to confidential business information.
255	Exhibit 28 to the Declaration of Eric C. Green	Top email at Docket No. 255-33 SEALED; original email being forwarded UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
255	Exhibit 29 to the Declaration of Eric C. Green	Designations in yellow at Docket No. 255-35 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
255	Exhibit 30 to the Declaration of Eric C. Green	SEALED	Narrowly tailored to attorney work product and confidential business information.
255	Exhibit 31 to the Declaration of Eric C. Green	SEALED	Narrowly tailored to attorney work product and confidential business information.
255	Exhibit 32 to the Declaration of Eric C. Green	Designations in yellow at Docket No. 255-40 at ¶¶ 227-229 and 329 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
255	Good's Opposition to MobileIron's Motion for Summary Judgment of Non-Infringement and Invalidity	Designations in yellow at Docket No. 255-4 at 5:25-28, 6:1-13, 6:15-17, 6:22-26, 7:1-3, 7:7-10, 7:15-17, 7:20-24, 8:7-11, 8:16-23, 9:1-2, 9:7-9, 13:11-23, 14:3-6, 14:13-14, 14:23-27, 16:19-21, 16:26-28, 17:5, 25:14-22, 25:27, 26:1-2, 26:4, 26:17-25, 28:24-25, 29:26-28, 44:5-12, 46:18-22, 47:2-4, 47:10-11, 47:14-17, 48:11-14, and 48:16-17 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
261	Exhibit 2 to the Declaration of Joel Stonedale	Designations in yellow at Docket No. 261-6 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.

1	261	Motion to Strike Portions of Defendant's Expert Report Regarding Defendant's Infringement Counterclaim	Designations in yellow at Docket No. 261-4 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
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4	265	Exhibit 41 to the Declaration of Vickie Freeman	SEALED	Narrowly tailored to confidential business information.
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6	265	Exhibit 42 to the Declaration of Vickie Freeman	SEALED	Narrowly tailored to confidential business information.
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8	265	Exhibit 43 to the Declaration of Vickie Freeman	SEALED	Narrowly tailored to confidential business information.
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10	265	Exhibit 34 to the Declaration of Glen Lui	UNSEALED	Not narrowly tailored to confidential business information. See Civ. L.R. 79-5(d)(1)(A).
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13	265	Exhibit 35 to the Declaration of Glen Lui	SEALED	Narrowly tailored to confidential business information.
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15	265	Exhibit 37 to the Declaration of Glen Lui	SEALED	Narrowly tailored to confidential business information.
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18	265	MobileIron, Inc.'s Reply in Support of the Motion for Summary Judgment of Non-Infringement and Invalidity	Designations in yellow at Docket No. 265-8 at 2:4-28, 4:25-28, 7:10-21, 8:1, 9:2-3, 9:10-12 and 17:27-28 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
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21	265	MobileIron, Inc.'s Reply in Support for the Motion for Summary Judgment on Lost Profits	Designations in yellow at Docket No. 265-5 at i:11-12, 2:8-9, 4:11-12, 5:5, 5:20-22, 8:6-7, 10:9-28, 11:1, 11:19-26 and 12:15 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
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SO ORDERED.

Dated: April 30, 2015



PAUL S. GREWAL

United States Magistrate Judge

United States District Court
For the Northern District of California